IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

Order

D.B. Civil Special Appeal (Writ) No. 437/2007

Maharshi Dayanand Saraswati University, Ajmer through Registrar

Versus

1. Shri Arun Kumar Kumawat S/o Shri Satya Narain Kumawat, aged about 25 years, resident of Biharipole, Naya Shahar, Kishangarh, District Ajmer

2. Government College, Ajmer through Principal

Date of Order :: 5th April, 2007

PRESENT

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE R.S. CHAUHAN

Mr. R.S. Rathore for the appellant

Heard Mr. R.S. Rathore, the advocate for the appellant. The counsel does not dispute that the respondent No.1 was in-fact declared pass having obtained 36 marks on re-evaluation of paper of Contract-I. The difficulty for the first

respondent arose as in the LLB Ist Year examination, 2006, he was declared 'fail' in two papers namely (one) Law of Torts and Consumer Protection and (two) Contract-I. The respondent No.1 applied for the re-evaluation of Contract-I paper. Since the result of re-evaluation was not declared in time, the respondent No.1 applied for supplementary examination in the aforesaid two papers namely (one) Law of Torts and Consumer Protection; and (two) Contract-I. It is not in dispute that he cleared the paper of Law of Torts and Consumer Protection. However since he did not choose to appear in the Supplementary Examination of the paper of Contract-I, he was declared 'fail' in the supplementary examination. It is not in dispute that subsequently the re-evaluation of paper of Contract-I was done by the University and the respondent No.1

secured 36 marks which is minimum pass marks. It is also not in dispute that thus all the papers of LLB Ist year were cleared by the respondent No.1.

2. The Ordinance (iii) of 157 A(c) of the University of Rajasthan Ordinances has no application to the fact situation obtaining in the present case. The only thing that is provided by the Ordinance (iii) of Ordinance 157 A(c) is that the candidate who appears at the supplementary examination and also applies for re-evaluation and if the result of re-evaluation is declared after appearance at the supplementary examination of the main examination, in such a case, the better performance may be taken into account if the candidate so wishes. Ordinance (iii) of Ordinance 157 A(c) is not an impediment for the declaration of the result of the petitioner, who has cleared all the papers

of LLB Ist year. If the petitioner was declared 'fail' in Contract-I paper initially and later-on on re-evaluation he obtained pass marks, it was only due to flaw in the initial assessment, for which the respondent No.1 could not be faulted.

3. In these circumstances, the direction given by the Single Judge to the respondent No.2 to issue fresh marks sheet of LLB Ist year examination, 2006 to the petitioner cannot be faulted.

4. Special appeal has no merit. It is dismissed in limine.

R.S. Chauhan, J. R.M.Lodha, J.

DK/-